

Calendar No. 560

105TH CONGRESS
2D SESSION

S. 1770

[Report No. 105–319]

To elevate the position of Director of the Indian Health Service to Assistant Secretary of Health and Human Services, to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 1998

Mr. MCCAIN (for himself, Mr. CAMPBELL, Mr. INOUE, and Mr. CONRAD) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

SEPTEMBER 9, 1998

Reported by Mr. CAMPBELL, with an amendment and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To elevate the position of Director of the Indian Health Service to Assistant Secretary of Health and Human Services, to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN**
 4 **HEALTH.**

5 (a) **ESTABLISHMENT.**—There is established within
 6 the Department of Health and Human Services the Office
 7 of the Assistant Secretary for Indian Health.

8 (b) **ASSISTANT SECRETARY FOR INDIAN HEALTH.**—
 9 In addition to the functions performed on the date of en-
 10 actment of this Act by the Director of the Indian Health
 11 Service, the Assistant Secretary for Indian Health shall
 12 perform such functions as the Secretary of Health and
 13 Human Services may designate.

14 (c) **REFERENCES.**—Reference in any other Federal
 15 law, Executive order, rule, regulation, or delegation of au-
 16 thority, or any document of or relating to the Director
 17 of the Indian Health Service shall be deemed to refer to
 18 the Assistant Secretary for Indian Health.

19 (d) **RATE OF PAY.**—

20 (1) **POSITIONS AT LEVEL IV.**—Section 5315 of
 21 title 5, United States Code, is amended—

22 (A) by striking the following:

23 “Assistant Secretaries of Health and Human
 24 Services (6).”; and

25 (B) by inserting the following:

1 “Assistant Secretaries of Health and Human
2 Services (7).”.

3 ~~(2) POSITIONS AT LEVEL V.~~—Section 5316 of
4 such title is amended by striking the following:

5 “Director, Indian Health Service, Department
6 of Health and Human Services.”.

7 (e) CONFORMING AMENDMENTS.—

8 (1) IN GENERAL.—Section 601 of the Indian
9 Health Care Improvement Act (25 U.S.C. 1661) is
10 amended—

11 (A) in subsection (a)—

12 (i) in the second sentence, by striking
13 “a Director,” and inserting “the Assistant
14 Secretary for Indian Health,”;

15 (ii) in the third sentence, by striking
16 “The Director of the Indian Health Service”
17 and inserting “The Assistant Secretary for Indian Health”;

18 (iii) in the fourth sentence, by striking
19 “the Director” and inserting “the Assistant
20 Secretary for Indian Health”; and

21 (iv) by striking the fifth sentence;

22 (B) in subsection (c), by striking “Director
23 of the Indian Health Service” both places it ap-
24

1 pears and inserting “Assistant Secretary for In-
 2 dian Health”; and

3 (C) in subsection (d), by striking “Director
 4 of the Indian Health Service” and inserting
 5 “Assistant Secretary for Indian Health”.

6 (2) MISCELLANEOUS.—The following provisions
 7 are each amended by striking “Director of the In-
 8 dian Health Service” each place it appears and in-
 9 serting “Assistant Secretary for Indian Health”:

10 (A) Section 816(e)(1) of the Indian Health
 11 Care Improvement Act (25 U.S.C. 1680f(e)(1)).

12 (B) Section 203(a)(1) of the Rehabilitation
 13 Act of 1973 (29 U.S.C. 761b(a)(1)).

14 (C) Subsections (b) and (e) of section 518
 15 of the Federal Water Pollution Control Act (33
 16 U.S.C. 1377 (b) and (e)).

17 (D) Section 803B(d)(1) of the Native
 18 American Programs Act of 1974 (42 U.S.C.
 19 2991b-2(d)(1)).

20 **SEC. 2. ORGANIZATION OF INDIAN HEALTH SERVICE WITH-**
 21 **IN THE DEPARTMENT OF HEALTH AND**
 22 **HUMAN SERVICES.**

23 (a) ORGANIZATION.—Section 601 of the Indian
 24 Health Care Improvement Act (25 U.S.C. 1661), as
 25 amended by section 1(e)(1), is further amended—

1 (1) by striking “within the Public Health Serv-
 2 ice of the Department of Health and Human Serv-
 3 ices” each place it appears and inserting “within the
 4 Department of Health and Human Services”; and

5 (2) in the third sentence of subsection (a), by
 6 striking “report to the Secretary through the Assist-
 7 ant Secretary for Health of the Department of
 8 Health and Human Services” and inserting “report
 9 to the Secretary”.

10 (b) CONFORMING AMENDMENT.—The section head-
 11 ing of section 601 of the Indian Health Care Improvement
 12 Act (25 U.S.C. 1661) is amended to read as follows:

13 “ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS
 14 AN AGENCY OF THE DEPARTMENT OF HEALTH AND
 15 HUMAN SERVICES”.

16 (c) UTILIZATION OF PUBLIC HEALTH SERVICE PER-
 17 SONNEL.—

18 (1) IN GENERAL.—Nothing in the amendments
 19 made by this section may be interpreted as terminat-
 20 ing or otherwise modifying any authority providing
 21 for the utilization by the Indian Health Service of
 22 officers or employees of the Public Health Service
 23 for the purposes of carrying out the responsibilities
 24 of the Indian Health Service.

25 (2) TREATMENT OF OFFICERS AND EMPLOY-
 26 EES.—Any officer or employee that is utilized in the

1 manner described in paragraph (1) shall be treated
 2 as an officer or employee detailed to an executive de-
 3 partment under section 214(a) of the Public Health
 4 Service Act (42 U.S.C. 215(a)).

5 **SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN**
 6 **HEALTH.**

7 (a) *ESTABLISHMENT.*—There is established within the
 8 Department of Health and Human Services the Office of
 9 the Assistant Secretary for Indian Health in order to, in
 10 a manner consistent with the government-to-government re-
 11 lationship between the United States and Indian tribes—

12 (1) *facilitate advocacy for the development of ap-*
 13 *propriate Indian health policy; and*

14 (2) *promote consultation on matters related to*
 15 *Indian health.*

16 (b) *ASSISTANT SECRETARY FOR INDIAN HEALTH.*—In
 17 addition to the functions performed on the date of enact-
 18 ment of this Act by the Director of the Indian Health Serv-
 19 ice, the Assistant Secretary for Indian Health shall perform
 20 such functions as the Secretary of Health and Human Serv-
 21 ices may designate. The Assistant Secretary for Indian
 22 Health shall—

23 (1) *report directly to the Secretary concerning*
 24 *all policy- and budget-related matters affecting In-*
 25 *dian health;*

1 (2) *collaborate with the Assistant Secretary for*
 2 *Health concerning appropriate matters of Indian*
 3 *health that affect the agencies of the Public Health*
 4 *Service;*

5 (3) *advise each Assistant Secretary of the De-*
 6 *partment of Health and Human Services concerning*
 7 *matters of Indian health with respect to which that*
 8 *Assistant Secretary has authority and responsibility;*

9 (4) *advise the heads of other agencies and pro-*
 10 *grams of the Department of Health and Human Serv-*
 11 *ices concerning matters of Indian health with respect*
 12 *to which those heads have authority and responsibil-*
 13 *ity; and*

14 (5) *coordinate the activities of the Department of*
 15 *Health and Human Services concerning matters of*
 16 *Indian health.*

17 (c) *REFERENCES.*—*Reference in any other Federal*
 18 *law, Executive order, rule, regulation, or delegation of au-*
 19 *thority, or any document of or relating to the Director of*
 20 *the Indian Health Service shall be deemed to refer to the*
 21 *Assistant Secretary for Indian Health.*

22 (d) *RATE OF PAY.*—

23 (1) *POSITIONS AT LEVEL IV.*—*Section 5315 of*
 24 *title 5, United States Code, is amended—*

25 (A) *by striking the following:*

1 *“Assistant Secretaries of Health and Human*
 2 *Services (6).”*; and

3 *(B) by inserting the following:*

4 *“Assistant Secretaries of Health and Human*
 5 *Services (7).”*.

6 (2) *POSITIONS AT LEVEL V.*—Section 5316 of
 7 such title is amended by striking the following:

8 *“Director, Indian Health Service, Department of*
 9 *Health and Human Services.”*.

10 (e) *DUTIES OF ASSISTANT SECRETARY FOR INDIAN*
 11 *HEALTH.*—Section 601 of the Indian Health Care Improve-
 12 ment Act (25 U.S.C. 1661) is amended in subsection (a)—

13 (1) by inserting “(1)” after “(a)”;

14 (2) in the second sentence of paragraph (1), as
 15 so designated, by striking “a Director,” and inserting
 16 *“the Assistant Secretary for Indian Health,”*; and

17 (3) by striking the third sentence of paragraph
 18 (1) and all that follows through the end of the sub-
 19 section and inserting the following: *“The Assistant*
 20 *Secretary for Indian Health shall carry out the duties*
 21 *specified in paragraph (2).*

22 “(2) *The Assistant Secretary for Indian Health*
 23 *shall—*

1 “(A) report directly to the Secretary concerning
2 all policy- and budget-related matters affecting In-
3 dian health;

4 “(B) collaborate with the Assistant Secretary for
5 Health concerning appropriate matters of Indian
6 health that affect the agencies of the Public Health
7 Service;

8 “(C) advise each Assistant Secretary of the De-
9 partment of Health and Human Services concerning
10 matters of Indian health with respect to which that
11 Assistant Secretary has authority and responsibility;

12 “(D) advise the heads of other agencies and pro-
13 grams of the Department of Health and Human Serv-
14 ices concerning matters of Indian health with respect
15 to which those heads have authority and responsibil-
16 ity; and

17 “(E) coordinate the activities of the Department
18 of Health and Human Services concerning matters of
19 Indian health.”.

20 (f) *CONTINUED SERVICE BY INCUMBENT.*—The indi-
21 vidual serving in the position of Director of the Indian
22 Health Service on the date preceding the date of enactment
23 of this Act may serve as Assistant Secretary for Indian
24 Health, at the pleasure of the President after the date of
25 enactment of this Act.

1 (g) *CONFORMING AMENDMENTS.*—

2 (1) *AMENDMENTS TO INDIAN HEALTH CARE IM-*
 3 *PROVEMENT ACT.*—*The Indian Health Care Improve-*
 4 *ment Act (25 U.S.C. 1601 et seq.) is amended—*

5 (A) *in section 601—*

6 (i) *in subsection (c), by striking “Di-*
 7 *rector of the Indian Health Service” both*
 8 *places it appears and inserting “Assistant*
 9 *Secretary for Indian Health”; and*

10 (ii) *in subsection (d), by striking “Di-*
 11 *rector of the Indian Health Service” and*
 12 *inserting “Assistant Secretary for Indian*
 13 *Health”; and*

14 (B) *in section 816(c)(1), by striking “Direc-*
 15 *tor of the Indian Health Service” and inserting*
 16 *“Assistant Secretary for Indian Health”.*

17 (2) *AMENDMENTS TO OTHER PROVISIONS OF*
 18 *LAW.*—*The following provisions are each amended by*
 19 *striking “Director of the Indian Health Service” each*
 20 *place it appears and inserting “Assistant Secretary*
 21 *for Indian Health”:*

22 (A) *Section 203(a)(1) of the Rehabilitation*
 23 *Act of 1973 (29 U.S.C. 761b(a)(1)).*

1 *(B) Subsections (b) and (e) of section 518 of*
2 *the Federal Water Pollution Control Act (33*
3 *U.S.C. 1377 (b) and (e)).*

4 *(C) Section 803B(d)(1) of the Native Amer-*
5 *ican Programs Act of 1974 (42 U.S.C. 2991b–*
6 *2(d)(1)).*

Amend the title so as to read: “A bill to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes.”.

Calendar No. 560

105TH CONGRESS
2^D Session

S. 1770

[Report No. 105-319]

A BILL

To elevate the position of Director of the Indian Health Service to Assistant Secretary of Health and Human Services, to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and for other purposes.

SEPTEMBER 9, 1998

Reported with an amendment and an amendment to the title